

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DCH AUTO GROUP (USA), INC.,

Plaintiff,

-against-

FIT YOU BEST AUTOMOBILE, INC.,

Defendant.
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GERSHON, United States District Judge:

By order dated October 17, 2005, the court granted default judgment in favor of plaintiff and referred the matter to the Honorable Joan M. Azrack, United States Magistrate Judge, for a report and recommendation concerning the relief, if any, that should be granted to plaintiff. On January 10, 2006, Judge Azrack issued a report and recommendation recommending that plaintiff's application for a permanent injunction be granted and that plaintiff be awarded costs in the amount of \$668.77 and attorney's fees in the amount of \$36,388.46. Defendant has not filed any objections.

The unopposed report and recommendation of Judge Azrack is hereby adopted by the court. Defendant is permanently enjoined from:

- a. using in any manner, or holding itself out as having rights to use, the 大昌 (DAH CHONG) mark or any other name, mark, or designation confusingly similar to plaintiff's 大昌 (DAH CHONG) mark to identify, designate, describe, or refer to itself or any goods or services it offers;
- b. using the 大昌 (DAH CHONG) mark to render, offer, sell, advertise, or

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05 CV 2973 (NG) (JMA)

AMENDED
~~PROPOSED~~ ORDER

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promote any goods or services;

- c. making any statement or misrepresentation whatsoever, or using any false designation of origin, false description, or false representation, or performing any act, which can or is likely to cause confusion or mistake, to deceive, or otherwise mislead the trade or public into falsely believing that plaintiff and defendant are one and the same or that there is an affiliation or relationship between plaintiff and defendant or the products and services they offer;
- d. operating a website at www.motor1usa.com or any other Internet address that displays the 大昌 (DAH CHONG) mark directly or indirectly; and
- e. engaging in any other activity constituting unfair competition with plaintiff, constituting deceptive trade practices, or constituting dilution of the 大昌 (DAH CHONG) mark or of plaintiff's reputation or goodwill.

In addition, defendant is directed to pay plaintiff's costs in the amount of \$668.77 and attorney's fees in the amount of \$36,388.46, for a total award of \$37,057.23.

The Clerk of Court is directed to enter judgment for plaintiff.

SO ORDERED.

/s/

NINA GERSHON
United States District Judge

Dated: Brooklyn, New York
February 15, 2006